

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Crim. Action No.: 2:20-cr-7  
(Judge Kleeh)

COURTNEY MARIE ZIRKLE,

Defendant.

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION  
CONCERNING PLEA OF GUILTY IN FELONY CASE [DKT. NO. 47],  
ACCEPTING GUILTY PLEA, AND SCHEDULING SENTENCING HEARING**

On August 4, 2020, the Defendant, Courtney Marie Zirkle ("Zirkle"), appeared before United States Magistrate Judge Michael J. Aloi and moved for permission to enter a plea of **GUILTY** to Counts One and Three of the Indictment, charging her with Possession with Intent to Distribute Methamphetamine, in violation of Title 21, U.S.C. § 841(a)(1) and 841(b)(1)(C) and Unlawful Possession of a Firearm in violation of Title 18, U.S.C. § 922(g) and 924(a)(2). Zirkle stated that she understood that the magistrate judge is not a United States District Judge, and Zirkle consented to pleading before the magistrate judge. This Court referred Defendant's plea of guilty to the magistrate judge for the purpose of administering the allocution, pursuant to Federal Rule of Criminal Procedure 11, making a finding as to whether the

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plea was knowingly and voluntarily entered, and recommending to this Court whether the plea should be accepted.

Based upon Defendant Zirkle's statements during the plea hearing and the Government's proffer establishing that an independent factual basis for the plea existed, the magistrate judge found that Defendant Zirkle was competent to enter a plea, that the plea was freely and voluntarily given, that she was aware of the nature of the charges against her and the consequences of her plea, and that a factual basis existed for the tendered plea. The magistrate judge issued a *Report and Recommendation Concerning Plea of Guilty in Felony Case* ("R&R") [Dkt. No. 47] finding a factual basis for the plea and recommending that this Court accept Defendant Zirkle's plea of guilty to Counts One and Three of the Indictment.

The magistrate judge also directed the parties to file any written objections to the R&R within fourteen (14) days after service of the R&R. He further advised that failure to file objections would result in a waiver of the right to appeal from a judgment of this Court based on the R&R. Neither the Defendant nor the Government filed objections to the R&R.

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Accordingly, this Court **ADOPTS** the magistrate judge's R&R [Dkt. No. 47], provisionally **ACCEPTS** Defendant Zirkle's guilty plea, and **ADJUDGES** her **GUILTY** of the crimes charged in Counts One and Three of the Indictment.

Pursuant to Fed. R. Crim. P. 11(c)(3) and U.S.S.G. § 6B1.1(c), the Court **DEFERS** acceptance of the proposed plea agreement until it has received and reviewed the presentence investigation report prepared in this matter.

Pursuant to U.S.S.G. § 6A1 et seq., the Court **ORDERS** the following:

1. The Probation Officer shall undertake a presentence investigation of Zirkle, and prepare a presentence investigation report for the Court;

2. The Government and Defendant Zirkle shall each provide their narrative descriptions of the offense to the Probation Officer by **September 1, 2020**;

3. The presentence investigation report shall be disclosed to Defendant Zirkle, counsel for Defendant, and the Government on or before **November 2, 2020**; however, the Probation Officer shall not disclose any sentencing recommendations made pursuant to Fed. R. Crim. P. 32(e)(3);

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4. Counsel may file written objections to the presentence investigation report on or before **November 16, 2020**;

5. The Office of Probation shall submit the presentence investigation report with addendum to the Court on or before **November 30, 2020**; and

6. Counsel may file any written sentencing memorandum or statements and motions for departure from the Sentencing Guidelines, including the factual basis for the same, on or before **December 18, 2020**.

The magistrate judge released Defendant Zirkle on the terms of the Order Setting Conditions of Release [Dkt. No. 11].

The Court will conduct the **Sentencing Hearing** for Defendant on **Thursday, January 7, 2021, at 2:00 P.M.**, at the **Elkins, West Virginia** point of holding court. If counsel anticipates having multiple witnesses or an otherwise lengthy sentencing hearing, please notify the Judge's chamber staff so that an adequate amount of time can be scheduled.

It is so ORDERED.

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The Clerk is directed to transmit copies of this Order to counsel of record and all appropriate agencies.

DATED: August 21, 2020

/s/ Thomas S. Kleeh  
THOMAS S. KLEEH  
UNITED STATES DISTRICT JUDGE